

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

PAUL E. PODHORN, JR.,

Plaintiff,

v.

Civil Action No. **3:08CV160**

S. DESROCHERS, et al.,

Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on March 19, 2008, the Court conditionally docketed Plaintiff's civil action. At that time, the Court directed Plaintiff to affirm his intention to pay the full \$350.00 filing fee by signing and returning a consent to collection of fees form. The Court warned Plaintiff that the failure to comply with this directive within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Thereafter, Plaintiff responded by asserting that the filing fee for the present action was only \$5.00. By Memorandum Order entered on April 24, 2008, the Court informed Plaintiff that he was incorrect. *See* 28 U.S.C. § 1914(a). That same Memorandum Order directed the Clerk of this Court to send Plaintiff another consent to collection of fees form, and granted Plaintiff an extension of eleven (11) days from the date of entry thereof to complete and return the consent to collection of fees form.

More than eleven (11) days have elapsed and Plaintiff has not complied with the order of this Court. Plaintiff failed to return the consent to collection of fees form. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing fee for the instant complaint. *See* 28 U.S.C. § 1914(a). Such actions demonstrate a wilful failure to

prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

Date: 6-10-08
Richmond, Virginia

/s/
James R. Spencer
Chief United States District Judge